

## **DETAILED ACTION**

### ***Claim Objections***

Claims 21 and 25 are objected to because of the following informalities: In claim 21, line 6, the term --signal-- should be placed after "output." In claim 25, line 9, the term --signal-- should be placed after "output." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 23 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The phrase citing "attached to the patient" in line 3 and "forming a loop around...[a] portion of the body" in line 5 appears to improperly include the portion of the body as part of the claimed invention. The phrase --configured for-- or --adapted for-- should be placed before each abovementioned phrase.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blakely et al Eriksen et al (US 6,945,941) in view of Blakeley et al (US 5,038,785).

Eriksen et al disclose means 107 for detecting motion of the patient in the presence of a magnetic field. A voltage measuring device (considered to be amplifier 127 and/or rectifier 133) having an output induced by the interaction of the motion of the exterior portion of the body and the magnetic field and representative of the motion of the patient body. However, Eriksen et al describe an output signal that is a volume measurement based on patient body motion in the magnetic field, and not means for generating a gating signal.

Blakely et al teach of an MRI apparatus and method for measuring cardiac cycle of a patient with electrodes and an expansion belt 32 that monitors the respiratory cycle by measuring the motion of the exterior of the patient body. Further, gating means D is responsive to the output signal for generating a gating signal representative of motion of the patient body (see figure 1). It would have been obvious to the skilled artisan to modify Eriksen et al, to include gating means as responsive to a signal representative of exterior motion of the patient body as taught by Blakely et al, in order to permit gating of the imaging, thereby reducing motion artifacts.

***Allowable Subject Matter***

Claims 7-12 and 17-20 are allowed. Claim 25 would be allowable if the claim objection is overcome. Claim 23 would be allowable if re-written to overcome the 101 rejection.

### ***Response to Arguments***

Applicant's arguments with respect to claim 21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MICHAEL ROZANSKI** whose telephone number is (571)272-1648. The examiner can normally be reached on Monday - Friday, 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Eric F Winakur/  
Primary Examiner, Art Unit 3768

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